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BEFORE THE

ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

UNION PACIFIC RAILROAD COMPANY,

Petitioner,

VS.

BUREAU COUNTY, ILLINOIS, a
municipal Corporation in
BUREAU COUNTY, Illinois,

Respondent .

Petition for an order of the Illinois Commerce Commission authorizing the installation of an additional railroad track at the grade crossing inventoried as DOT #1756y (M.P.46.5) at what is commonly known as County Road 1550N in Bureau County, Illinois, at its intersection with the main line tracks of Union Pacific Railroad Company, and authorizing the reconfiguration of the existing crossing surface, existing roadway surface and the existing warning devices

Chicago, Illinois

May 9, 2012

Met, pursuant to notice, at

2 o'clock p.m.

1 BEFORE:

2 MR. TIMOTHY DUGGAN,
3 Administrative Law Judge

4 APPEARANCES:

5 MR. MACK SHUMATE
6 101 North Wacker Drive
7 Chicago, Illinois, 60606
8 appearing for Union Pacific
9 Railroad Company

10 MR. JOHN SALADINO
11 527 East Capitol Avenue
12 Springfield, Illinois, 62701,
13 appearing for the Railroad Safety Section
14 of the Illinois Commerce Commission

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I N D E X

WITNESSES	DIRECT	CROSS	REDIRECT	RECROSS	EXMNR.
JOHN VENICE	6	48	49	51	19
	20		59		56
					60
RICHARD ELLISON	69				71

E X H I B I T S

PETITIONER'S	FOR IDENTIFICATION	IN EVIDENCE.
A	11	79
B	11	79
C	31	79

1 JUDGE DUGGAN: Pursuant to the direction and
2 authority of the State of Illinois and the Illinois
3 Commerce Commission, I now call Docket No. T11-0109
4 for hearing.

5 May I have appearances starting with
6 Union Pacific.

7 MR. SHUMATE: My name is Mack Shumate. I'm an
8 attorney for the Union Pacific Railroad Company. We
9 have offices at 101 North Wacker Drive, Chicago,
10 Illinois, 60606. I will be having two witnesses
11 potentially today, first John Venice and second
12 Richard Ellison.

13 JUDGE DUGGAN: Okay. Did you give your phone
14 number?

15 MR. SHUMATE: No, I did not. I will give it
16 right now. Area Code 312-777-2055.

17 JUDGE DUGGAN: Okay. And, Mr. Saladino.

18 MR. SALADINO: Yes. Your Honor, representing the
19 Transportation Bureau of the Illinois Commerce
20 Commission, Railroad Safety Section, John Saladino,
21 S-a-l-a-d-i-n-o, 527 East Capitol Avenue,
22 Springfield, Illinois, 62701, and the phone number

1 is Area Code 217-785-8423.

2 JUDGE DUGGAN: Okay. And let the record show
3 that there are no other parties here today, that no
4 one has appeared on behalf of Bureau County, nor
5 Milo Township, nor Saratoga Township.

6 (No further appearances.)

7 Is that correct or your understanding,
8 Mr. Shumate?

9 MR. SHUMATE: Yes, it is, your Honor.

10 JUDGE DUGGAN: And, Mr. Saladino, is that correct
11 to your understanding?

12 MR. SALADINO: Yes, your Honor.

13 JUDGE DUGGAN: Okay. And you are going to
14 introduce the exhibits through these witnesses also?

15 MR. SHUMATE: Yes, I will, your Honor.

16 JUDGE DUGGAN: Okay. Will the two witnesses
17 raise your right hand.

18 (Witnesses sworn.)

19 Thank you. Then will you call your
20 first witness, Mr. Shumate

21 MR. SHUMATE: Yes, your Honor. I would like to
22 call John Venice.

1 JOHN VENICE,
2 called as a witness herein, having been first duly
3 sworn, was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY

6 MR. SHUMATE:

7 Q. Mr. Venice, would you state your name for
8 the record, please.

9 A. My name is John Venice, first name John
10 spelled J-o-h-n, last name is Venice, V - like
11 Victor -- e-n-i-c-e.

12 Q. And, Mr. Venice, by whom are you currently
13 employed?

14 A. I'm currently employed by the Union Pacific
15 Railroad Company.

16 Q. And how long have you been employed by the
17 Union Pacific and/or its predecessor?

18 A. Just over 13 years.

19 Q. Mr. Venice, what is your title at the
20 railroad?

21 A. I'm manager of special projects in the
22 railroad's engineering department.

1 Q. Are you familiar with the subject matter of
2 today's hearing?

3 A. Yes, I am.

4 Q. And have you had an opportunity to visit the
5 particular crossing that's the subject of today's
6 hearing?

7 A. Yes, we have.

8 Q. And have you been able to prepare
9 information concerning that crossing that's
10 available in the public records?

11 A. Yes. We have prepared some photographs of
12 the crossings.

13 Q. Have you also been able to review the
14 records that have been maintained by the Illinois
15 Department of Transportation and other governmental
16 entities with regard to this crossing?

17 A. Yes, we have.

18 Q. When's the last time you were at the
19 crossing?

20 A. We were at the crossing around February of
21 this year.

22 Q. Okay. And what is the purpose of this

1 petition before the Illinois Commerce Commission, in
2 your own words, as a general matter?

3 A. As a general matter, the purpose of the
4 petition is to allow a second track through the
5 existing crossing of County Road 50 North and the
6 Union Pacific Railroad.

7 Q. For purposes of the record, will you again
8 reference what the County Road is?

9 A. The County Road is 1550 North.

10 Q. Okay. And is there currently an at grade
11 crossing at this location?

12 A. Yes, there is.

13 Q. And it's an intersection of the Union
14 Pacific Railroad tracks and this particular road
15 that you referenced?

16 A. It is. It's an intersection of the Union
17 Pacific Railroad's Peoria Subdivision at
18 approximately Milepost 46.5.

19 Q. And does this crossing have a DOT ending
20 number for it?

21 A. Yes, it does, and that number is 175677Y --
22 as in young.

1 Q. Okay. Now have you and your staff prepared
2 some photographs and slides that would be helpful
3 for the hearing officer at today's hearing?

4 A. Yes, we did.

5 Q. And I'm going to show you what's been marked
6 as Petitioner's Group Exhibit C consisting of 20
7 pages. Are you familiar with this document?

8 A. Yes, I am familiar with it.

9 Q. And, to your knowledge, has a copy of this
10 been forwarded to the Office of the Proceedings or
11 the Director of Proceedings with the Illinois
12 Commerce Commission for use by the staff of the
13 Illinois Commerce Commission and the hearing officer
14 in charge of this particular hearing?

15 A. Yes. My understanding is the ICC -- John
16 Saladino has a copy of this exhibit.

17 JUDGE DUGGAN: Tell you what -- do you, in fact,
18 have our copies before you you like to present?

19 MR. SHUMATE: Yes, I do.

20 JUDGE DUGGAN: Are they one-sided and dated?

21 MR. SHUMATE: Yes, they are.

22 JUDGE DUGGAN: Why don't we have the court

1 reporter mark that first page accordingly.

2 MR. SHUMATE: Your Honor, I'm asking the court
3 reporter to mark this as Petitioner's Group Exhibit
4 C consisting of 20 pages.

5 JUDGE DUGGAN: Does that include the first cover
6 sheet?

7 MR. SHUMATE: Yes, it does and all cover sheets
8 that are included. I have also provided a disk to
9 the court reporter. If you would like to have that
10 as part of the record, I can include that also.

11 JUDGE DUGGAN: No. No. Don't mark that as an
12 exhibit.

13 MR. SHUMATE: I will not.

14 JUDGE DUGGAN: And then -- okay. You have hard
15 copies of your Exhibits A and B, which are attached
16 to the petition?

17 MR. SHUMATE: Yes, I do.

18 JUDGE DUGGAN: Why don't you also ask Pat to mark
19 those.

20 MR. SHUMATE: Okay, your Honor. I have asked the
21 court reporter to mark the Exhibit A as Petitioner's
22 Exhibit A that was attached to the petition and also

1 Exhibit B that was attached to the petition.

2 JUDGE DUGGAN: Okay. So let me know when you are
3 done.

4 (Whereupon, Petitioner's
5 Exhibits A & B were
6 marked for
7 identification.)

8 MR. SHUMATE: They have been so marked, your
9 Honor.

10 JUDGE DUGGAN: Very good. Go ahead and proceed.

11 MR. SHUMATE: And if it would please the court, I
12 would like to offer these exhibits as part of the
13 record.

14 JUDGE DUGGAN: Well, let's authenticate, and get
15 some foundation, and identify them --

16 MR. SHUMATE: Thank you.

17 JUDGE DUGGAN: -- through your witness.

18 MR. SHUMATE: Thank you.

19 MR. SHUMATE: Q. Okay. Mr. Venice, let's
20 direct your attention to Petitioner's Group Exhibit
21 C. And you have a copy of that, correct?

22 A. Yes, I do.

1 Q. And this refers to the hearing that we are
2 at today; is that correct?

3 A. That's correct.

4 Q. And that's on Page 1 of this Group Exhibit
5 C, correct?

6 A. That's correct.

7 Q. Okay. Now directing your attention to the
8 second page, would you describe -- and it's marked
9 as Page 2 -- what is this?

10 A. Page 2 is a Google Earth view of the
11 intersection of County Road 1550 North and the Union
12 Pacific Railroad's Peoria Subdivision.

13 Q. Looking at this photograph, there's a red
14 line. What is the red line?

15 A. The red line going north and south
16 represents the existing Union Pacific Railroad's
17 track at that location.

18 Q. Okay. And then the gray line that goes east
19 and west on that page, what is that?

20 A. That would be County Road 1550 North.

21 JUDGE DUGGAN: What county is that.

22 MR. SHUMATE: Say again?

1 JUDGE DUGGAN: Can you tell me what county that
2 is?

3 MR. SHUMATE: Yes.

4 JUDGE DUGGAN: What county is this in?

5 THE WITNESS: Bureau County.

6 JUDGE DUGGAN: Thank you. You might go ahead and
7 identify the boundaries of Saratoga and Milo
8 Townships while you are at it.

9 THE WITNESS: I'm sorry, your Honor. I don't
10 know the boundaries of the townships at this
11 location.

12 JUDGE DUGGAN: Okay.

13 MR. SHUMATE: Mr. Ellison, do you know that?

14 MR. ELLISON: No.

15 MR. SHUMATE: He doesn't know that, your Honor.

16 JUDGE DUGGAN: Okay.

17 MR. SALADINO: This is John Saladino in
18 Springfield. I know this roadway is right on the
19 county line of Bureau County and Marshall County,
20 and Marshall County is to the south. Bureau County
21 is to the north.

22 JUDGE DUGGAN: Of 1550?

1 MR. SALADINO: Of 1550. So Saratoga Township is
2 actually south of this roadway and Milo Township has
3 jurisdiction over this roadway and the roadway to
4 the north.

5 JUDGE DUGGAN: Okay. Generally I like to have
6 witnesses doing this stuff, but I guess we can do
7 that by stipulation then, because I think we do need
8 it in evidence, not just by representation being
9 made.

10 So let's go off the record.

11 You can go back to where you were. Go
12 back on the record. Mr. Shumate, you want to
13 continue your questions?

14 MR. SHUMATE: Yes. Thank you, your Honor.

15 MR. SHUMATE: Q. I'm back with Mr. Venice.

16 Mr. Venice, directing your attention
17 for purposes of the record to Page 2 of Petitioner's
18 Group Exhibit C, this is the road that you already
19 identified as 1550 North. Is Bureau County to the
20 north or south of that road?

21 A. My understanding is that Bureau County would
22 be to the north of that road.

1 Q. Okay. And Marshall County would be to the
2 south of that road; is that correct?

3 A. Yes, to the south of 1550 North.

4 Q. And Milo Township is it your understanding
5 that they have the responsibility for the actual
6 crossing and the road in the crossing area for
7 1550 North, which is the subject of today's hearing?

8 A. Yes, that is correct.

9 Q. And Saratoga Township is the owner of the
10 road that goes to the south and east of the
11 railroad's right-of-way; is that correct?

12 A. Yes.

13 Q. Now I would like to direct your attention to
14 the third page of Petitioner's --

15 JUDGE DUGGAN: Wait. Stop right there, because,
16 Mr. Shumate, I apologize for that. Just the
17 evidence that came in poses a conflict because --
18 Mr. Venice, is Milo Township in Bureau County?

19 THE WITNESS: That's my understanding from the
20 discussions that just transpired.

21 JUDGE DUGGAN: Okay. Well, because if Bureau
22 County is north of the road, Milo County has

1 jurisdiction within Bureau County. Milo County has
2 jurisdiction over the road crossing, and actually --
3 it isn't here. It's in here somewhere.

4 MR. SHUMATE: What's the -- if I may ask what's
5 the inconsistency? Bureau County is north of the
6 road and at a minimum at the road, and then Milo
7 Township has maintenance responsibility and
8 responsibility as the road authority for 1550 North
9 and Milo Township, and Milo Township is in Bureau
10 County.

11 JUDGE DUGGAN: Let's go off the record.

12 (Off the record.)

13 Back on the record.

14 MR. SHUMATE: Q. For clarification, Mr. Venice,
15 directing your attention again to Page 2 of
16 Petitioner's Group Exhibit C, the road that you
17 previously identified as 1550 North, that's
18 technically in Bureau County; is that correct?

19 A. Yes, that is my understanding.

20 Q. All right. Now I would like to direct your
21 attention to Page 3 of Petitioner's Group Exhibit C.
22 What is this document?

1 A. Well, this is the cover page of Page 1 of
2 the Union Pacific's design and construction plans
3 for the storage of the Illinois siding (phonetic)
4 project.

5 Q. Okay. And on this document there are two
6 ovals of the subject of today's hearing. Which oval
7 is that?

8 A. The subject of today's hearing is the south
9 oval.

10 Q. Okay. And the reason for the ovals on --
11 the two ovals on the Union Pacific right-of-way --
12 let me ask this first. Is the line that's between
13 the two ovals is that, in fact, the road line owned
14 by the Union Pacific which is part of today's
15 hearing?

16 A. Yes, it is.

17 Q. Do you know what subdivision on the railroad
18 that is?

19 A. That's the Union Pacific Railroad Peoria's
20 subdivision.

21 Q. Okay. And the northern oval why is that on
22 this design and construction cover sheet?

1 A. As part of the project, we are doing the
2 work on the north end of the existing siding. We
3 are installing a No. 15 power-operated turnout and
4 train control signals at the north end.

5 Q. Thank you. What is the purpose of the need
6 for this second track?

7 A. The overall purpose, the railroad is
8 expanding its capacity in the Peoria subdivision
9 forcing an increase in train traffic due to our
10 newly constructed connection with the Burlington
11 Northern Sante Fe, additional intermodal traffic,
12 and also coal train traffic.

13 Q. Mr. Venice, I would now like to direct your
14 attention to Page 4 of the Petitioner's Group
15 Exhibit C.

16 JUDGE DUGGAN: Before you move on, could you tell
17 me something. He made reference to an existing
18 siding, correct?

19 THE WITNESS: Yes. There is a siding at this
20 location, your Honor. It's 9,992 feet.

21

22

1 EXAMINATION

2 BY

3 JUDGE DUGGAN:

4 Q. At the 1550 North crossing?

5 A. It starts at few hundred feet north of the
6 1550 North crossing.

7 Q. Okay. And you said that crossing is -- that
8 siding is how long?

9 A. The existing siding is 9,992 feet long.

10 Q. 9,900 and --

11 A. 92 feet long.

12 Q. And that extends past the northern oval?

13 A. It does not. The northern limit of the
14 siding is at the northern oval.

15 Q. Okay. Are there other crossings that the
16 road of the siding crosses at grade?

17 A. Yes. The siding crosses -- and I have it in
18 front of me here -- an existing road 100 North at
19 approximately Milepost 45.53 of our Peoria
20 subdivision. It's right about smack in the middle
21 of the existing siding, and we have a warning device
22 upgrade project funded by the Commerce Commission at

1 this location.

2 Q. Did you say a 45?

3 A. Yes, 45.53.

4 Q. So that's just one mile north of the
5 1550 North?

6 A. Approximately, yes.

7 Q. Okay. And so your project will extend this
8 siding south into 1550 North; is that correct?

9 A. Yes, that is correct, sir.

10 Q. Okay. All right. Proceed. Go ahead.

11 MR. SHUMATE: Thank you.

12 DIRECT EXAMINATION (continued)

13 BY

14 MR. SHUMATE:

15 Q. Now I would like to direct your attention to
16 Page 4 of Petitioner's Group Exhibit C. What is
17 this document?

18 A. This is the inventory report for the
19 crossing at 1550 North County Road, 1550 North.

20 Q. Is this the same document that was attached
21 to the petition as Petitioner's Exhibit B?

22 A. Yes, it is.

1 Q. Okay. What does this -- who prepared this
2 document?

3 A. Well, this is an inventory document that the
4 Union Pacific Railroad controls. It tells things
5 like the type of warning devices at the crossing,
6 average daily traffic counts, crossing surface, and
7 other various engineering-type information.

8 Q. Okay. And this is the report for the
9 particular crossing that's the subject of today's
10 hearing; is that correct?

11 A. Yes, that's correct.

12 Q. And so it's at Milepost 46.5?

13 A. It is.

14 Q. And how many tracks currently cross that
15 highway?

16 A. There's only one track today, one main
17 track.

18 Q. And if the Commission so rules, will the
19 railroad then add two railroad tracks at this
20 particular crossing --

21 A. Yes, we would.

22 Q. -- and the crossing surfaces to accommodate

1 that, correct?

2 A. Yes. We would be installing two new
3 crossing surfaces.

4 Q. What is the timetable speed for the trains
5 that operate in this vicinity?

6 A. Timetable speed is 40 miles an hour.

7 Q. How many trains a day cross this crossing?

8 A. Right now with business levels, we are
9 seeing an average of 8 to a high point of 11 trains
10 a day.

11 Q. Isn't there a higher number that's listed on
12 this particular exhibit?

13 A. I think we show about 10 trains a day on
14 average on this exhibit.

15 Q. Okay. And what are the nature of the trains
16 that use this particular track?

17 A. The trains are all freight trains. There's
18 a mixture of general freight, intermodal (sic) and
19 coal traffic. There's no Amtrak or no passenger
20 trains.

21 Q. What is the accident history at this
22 particular crossing?

1 A. There was no history of any accidents that I
2 could find.

3 Q. Okay. And is this a 90-degree crossing or
4 an angle crossing?

5 A. It is. It's approximately 90 degrees.
6 There's no real spew. It's pretty much a 90-degree
7 crossing there.

8 Q. And the road itself does this indicate how
9 many lanes the road is?

10 A. It is one lane in each direction.

11 Q. So it's a two-lane crossing?

12 A. Yes, it's two lanes.

13 Q. Okay. And what are the signal devices for
14 warning vehicular traffic at this particular
15 crossing now?

16 A. Right now there are passive stop signs and
17 yield signs at this location.

18 Q. Are there cross bucks there?

19 A. Yes, cross bucks and yields.

20 Q. Are there stop signs?

21 A. I'm sorry. Just the cross bucks and yields.

22 Q. And what is -- according to this record,

1 what is the average daily traffic that utilizes this
2 crossing on a daily basis?

3 A. Our records show 109.

4 Q. And of the 109, is there an estimate as to
5 how many of those vehicles are trucks?

6 A. Yes. Our estimate is about 5 percent.

7 JUDGE DUGGAN: Is he testifying consistent with
8 Exhibit B or different from Exhibit B?

9 MR. SHUMATE: It's consistent with B, we believe,
10 your Honor, except for the number of trains. Number
11 of trains appear to have increased to 11 or 12 as
12 opposed to a total of 10.

13 JUDGE DUGGAN: Okay. The 18 --

14 MR. SHUMATE: Well, the 18 that we have is 109.
15 It may be lower than that based on some discussions,
16 but right now that's about what we have.

17 JUDGE DUGGAN: I was just wondering whether his
18 testimony was straight off of Exhibit B.

19 MR. SHUMATE: Yes, it is, your Honor.

20 JUDGE DUGGAN: Okay. And percentage of trucks is
21 the 5 percent number of trucks?

22 THE WITNESS: That's the percentage, your Honor.

1 JUDGE DUGGAN: Okay. Thank you. Go ahead.

2 Thank you.

3 MR. SHUMATE: Q. Okay. And then I would like to
4 direct your attention to what's been marked as
5 Petitioner's Group Exhibit C, Page 5. It's
6 entitled, "Union Pacific Railroad Company
7 Engineering Photos." The photos that are above the
8 following did you or people in your staff take these
9 photos?

10 A. Yes, we did.

11 Q. Okay. Do you know when you did it?

12 A. This is February of this year.

13 Q. Now directing your attention to the first
14 photograph that's at Page 6 of Petitioner's Group
15 Exhibit C, what is this?

16 A. This is a picture of the emergency
17 notification sign present at the at grade crossing
18 at County Road 1550 North.

19 Q. And does this also have a reference to the
20 DOT number for this particular crossing?

21 A. Yes, it does.

22 Q. And what is that on this particular photo?

1 A. That is the black numbers in kind of a white
2 oval. The number is 175677Y - as in young.

3 Q. Thank you. Now directing your attention to
4 Page 7 of Petitioner's Group Exhibit C, what is
5 this?

6 A. This is a picture taken at the existing
7 County Road 1550 North crossing looking north.

8 Q. And what is the nature of the crossing
9 surface?

10 A. It's just asphalt with wood planks.

11 JUDGE DUGGAN: With what?

12 THE WITNESS: With wood planks, your Honor.

13 MR. SHUMATE: Q. So this is looking north, and
14 so Bureau County is to the north of the -- well,
15 includes the crossing but also to the north; is that
16 correct?

17 A. That's my understanding.

18 Q. And the siding that you referenced in
19 previous testimony is it depicted on this
20 photograph?

21 A. It is shown on the photograph.

22 Q. Okay. That's what appears to be some track

1 on the right-hand side of the photograph. Is that
2 the eastern side?

3 A. Yes, the existing siding is to the east and
4 the photograph depicts the turnout at the south end
5 of the crossing.

6 Q. Where the track starts to wiggle there,
7 there's a -- looks like to be a box and a sign.
8 What is that device?

9 A. Well, that is a hand throw switch mechanism
10 that allows the train crew to align the tracks to
11 the main line for the siding track.

12 Q. Now this particular siding is this the
13 siding that will be extended in a straight
14 north/south manner to come across the crossing to
15 accommodate the need for the railroad to have a
16 longer siding?

17 A. Yes, that's correct.

18 Q. Now directing your attention still at this
19 photograph, on the right-hand side of the
20 photograph, most to the eastern side looking north,
21 does it show the cross buck that's currently there?

22 A. Yes. It shows the current warning devices,

1 cross bucks, and yield signs.

2 Q. Okay. Now directing your attention still to
3 this photograph and looking now to the west, is this
4 the road that has a little bit of an angle to it or
5 a slope?

6 A. It does have a bit of a slope, yes.

7 Q. Now directing your attention to what's been
8 marked as Page 8 of Petitioner's Group Exhibit C,
9 what is this photograph?

10 JUDGE DUGGAN: Wait. Which one? We just looked
11 at -- oh, no. That was okay. When you referred to
12 depicting the signs that are there, which exhibit
13 were you looking at? Page 10 or Page 8?

14 MR. SHUMATE: I'm looking at Page 8 now, your
15 Honor.

16 JUDGE DUGGAN: When you asked the question about
17 whether -- about the grade and the existing signage
18 depicted, which page were you looking at?

19 MR. SHUMATE: That was with regard to Page 7.

20 JUDGE DUGGAN: Okay. Okay. So go ahead. Thank
21 you.

22 MR. SHUMATE: Q. Now directing your attention

1 again, Mr. Venice, to Page 8 of Petitioner's Group
2 Exhibit C, what is this?

3 A. This is a photograph of the existing County
4 Road 1550 North crossing looking to the west.

5 Q. Now does this show that the trackage is a
6 little bit higher than the roadway surface -- the
7 approaches?

8 A. The track is higher than the roadway
9 approaches, yes.

10 Q. Now directing your attention to Page 9 of
11 Petitioner's Group Exhibit C, what is this?

12 A. This is looking at the existing switch.
13 This is at the southern end of the storage siding
14 that we are asking to lengthen.

15 Q. So the device that has the green metal at
16 the top, that's a switch, correct?

17 A. Yes, that whole device there is a hand throw
18 switch mechanism. The green is displayed when the
19 switch is aligned with the main track.

20 Q. Is this a close-up of the switch that was
21 depicted on Page 7 of this Group Exhibit C?

22 A. Yes, it is.

1 Q. Okay. Now I would like to direct your
2 attention to what's been marked as Page 10 of
3 Petitioner's Group Exhibit C. What is this?

4 A. This is a picture taken at the existing
5 County Road 1550 North crossing looking to the
6 south.

7 Q. Okay. Now this particular picture was taken
8 approximately on what day exactly?

9 A. I don't remember the exact date, but it was
10 in February of this year.

11 Q. So it was in the wintertime?

12 A. Yes.

13 Q. And all of the vegetation that would be in
14 the area to insipidus trees would that foliage be on
15 or off the trees?

16 A. It was off the trees. There wasn't much
17 vegetation in the four quadrants.

18 Q. Based on your experience, what is the nature
19 of the sight lines of this particular crossing?

20 A. The sight lines seem to be pretty open when
21 I was there. No major vegetation issues we could
22 see.

1 (Whereupon, Petitioner's
2 Exhibit C was marked
3 for identification.)

4 Q. And now directing your attention to Page 8
5 of Petitioner's Group Exhibit C, what is this?

6 A. Did you say 8 or 11?

7 Q. 11.

8 A. Okay. Exhibit -- Page 11 standing at the
9 existing County Road 1550 North crossing looking to
10 the east.

11 Q. Again, you can see the warning devices that
12 are currently there; is that correct?

13 A. Yes, you can.

14 Q. Now directing your attention to Page 12 of
15 Petitioner's Group Exhibit C, what is this?

16 A. This is a picture taken near the crossing
17 itself looking north, and this picture is west of
18 the tracks on the west side.

19 Q. This particular road would this be in Milo
20 Township or Saratoga Township west side of the
21 tracks?

22 A. West side --

1 JUDGE DUGGAN: This is Milo County -- Milo
2 Township?

3 MR. SHUMATE: Yes.

4 MR. SHUMATE: Q. All right. Now we have here
5 the next page, which is Page 13 of Petitioner's
6 Group Exhibit C, and what's this entitled?

7 A. These are photographs from the State of
8 Illinois at the County Road 1550 North crossing.

9 Q. Where did you get these photographs?

10 A. These are just from the Internet.

11 Q. And so it's from a website that's maintained
12 by whom?

13 A. By the state.

14 Q. Which state?

15 A. Illinois. I'm sorry.

16 Q. Okay. All right. And did you draw these
17 photographs off the computer yourself?

18 A. No. I asked Rich Ellison to get these for
19 me.

20 Q. Have you had an opportunity to take a look
21 at these photographs?

22 A. Yes, I have.

1 Q. Okay. Now directing your attention to Page
2 14 of Petitioner's Group Exhibit C, what is this?

3 A. We are standing at County Road 1550 North
4 crossing looking to the west.

5 Q. Okay. Now does this depict that the roadway
6 surface is lower than the track surface?

7 A. Yes, it would.

8 Q. So is it your estimate that the roadway
9 would have to be built up in order to meet the
10 requirements of the Illinois code and
11 Section 15.35?

12 A. Yes, it would.

13 Q. Okay. Now in looking at this particular
14 photograph, in the right-hand side and about the
15 middle of the page, do you see any windmills in the
16 area? Left-hand side, I mean.

17 A. To the left, there are some windmills, yes.

18 Q. While you were there, did you see the
19 windmills when you were taking your photographs?

20 A. I don't remember. I try not to look at
21 them.

22 Q. Okay. Do you know whether or not the

1 company servicing the windmills would utilize this
2 particular crossing?

3 A. It's possible, but they would be for
4 maintenance of those windmills.

5 Q. Now directing your attention to Page 15 of
6 Petitioner's Group Exhibit C, what is this?

7 A. Well, that is the existing 1550 North
8 crossing looking north.

9 Q. And is that switch that we talked about
10 previously depicted in this photograph?

11 A. Yes. It's about the middle of the
12 photograph.

13 Q. Now on this particular photograph are there
14 any trees that are shown?

15 A. Trees are in the very far distance. There
16 was none anywhere near the crossing.

17 Q. This particular crossing does it have much
18 in the way of obstruction of all four quadrants?

19 A. No. When I was there in February, it seemed
20 very bare.

21 Q. Now do these photographs have a date? Would
22 you state what the date is on Page 15 on the bottom

1 right-hand corner?

2 A. June 24th of 2009.

3 Q. So these pictures then were taken prior to
4 the time when you took your photographs?

5 A. That's my understanding, yes.

6 Q. And this particular photograph would have --
7 if the number's accurate, this would have been in
8 the beginning of the summer; is that correct?

9 A. Right. Toward the end of June.

10 Q. And the nature of the use of the property in
11 this picture on both sides of the right-of-way is
12 what type of use?

13 A. It's just rural, rural use. There's no
14 industries or industrial development that I could
15 see there.

16 Q. To the south of this crossing, is there a
17 grain facility? Well, let me strike that question.
18 We will come back to it.

19 A. Okay.

20 Q. Okay. Directing your attention to Page 16
21 of Petitioner's Group Exhibit C, what is this?

22 A. That's another picture of the emergency

1 notification sign of County Road at 1550 North.

2 Q. So this is the same sign that you had taken
3 with your own normal pictures?

4 A. It is the same sign.

5 Q. Now directing your attention to Page 17 --

6 A. Okay.

7 Q. -- of Petitioner's Group Exhibit C, what is
8 that?

9 A. That's standing at the existing County Road
10 1550 North crossing looking to the north.

11 Q. Okay. Again, on the right-hand middle
12 portion of that photograph, does that -- is that the
13 same -- is there a switch there?

14 A. Yes. That is the switch stand for the
15 turnaround.

16 Q. And that's the same switch we were talking
17 about before?

18 A. Yes, it is.

19 Q. Now there appears to be a ditch on this
20 side, on the west side on the railroad right-of-way.
21 Is that standard?

22 A. Typically there's a drainage ditch provided

1 for drainage to keep water away from the ballast.

2 Q. Now directing your attention to Page 18 of
3 Petitioner's Group Exhibit C, what is this a
4 photograph of?

5 A. That's at the existing County Road 1550
6 North crossing looking to the south.

7 Q. Okay. And on this particular photograph is
8 there a grain facility?

9 A. Yes, there is.

10 Q. Okay. And would the grain facility
11 typically have trucks that utilize the road that
12 access the facility?

13 A. Yes, they would, inventory coming in and out
14 of the grain facility and also cars going to work
15 there.

16 Q. And is it also a possibility that the Union
17 Pacific could be serving this facility?

18 A. I'm sure we could.

19 Q. Do you feel that the photographs, both your
20 own and the ones that were provided on the website
21 by the Illinois Department of Transportation,
22 accurately reflect the current condition of the

1 crossing?

2 A. Yes, they do.

3 Q. Do they accurately reflect the current sight
4 lines at this particular crossing?

5 A. Yes, they do.

6 Q. Now I would like to direct your attention to
7 what's been marked as Page 19 of Petitioner's Group
8 Exhibit C. Are you familiar with that document?

9 A. Yes, I am.

10 Q. Is this the same document that was attached
11 to the petition as Exhibit A?

12 A. It is the same.

13 Q. Okay. Now this is a colored version of that
14 particular document, is that correct?

15 A. This one is, yes.

16 Q. Okay. Can you walk us through this document
17 and tell us what it generally shows?

18 A. Sure. Well, this generally is the
19 engineering design and construction plan for our
20 proposal. What we like to do is extend the existing
21 siding to the south. The red line shows the
22 existing main track, and the green would be the

1 extension of the existing siding. There is a
2 portion in yellow which represents land we would be
3 acquiring to facilitate the construction of the new
4 turnout and the train control.

5 Q. Let me ask a question about this. There's
6 an arrow on the right hand. Well, it's on the
7 bottom of the slide. And does it depict which
8 direction is north?

9 A. Right. North would be to the right of the
10 page.

11 Q. So if you were handling this map, it would
12 be better to turn this where 19 is in the upper
13 right-hand corner; is that right?

14 A. That's correct. That would represent north
15 at the top of the page.

16 Q. You indicated that the red line indicates
17 the existing traffic there now; is that correct?

18 A. Yes, that's the existing main line track.

19 Q. And then you indicated that there was a
20 green line. That was how they decide the siding
21 would be extended across the County Road 1550
22 North?

1 A. Yes, that's correct.

2 Q. Okay. Can you tell the judge where the
3 crossing is now on this photograph or on this print?

4 A. Yes. Roughly in the middle of the page just
5 above the capital letters that say CR 1550 North,
6 and then parens, you have got the word asphalt.
7 Right above that is the crossing.

8 Q. And the crossing is depicted showing a
9 series of green lines?

10 A. Yes. The crossing would show one red line
11 for the existing track and one green line for the
12 proposed siding extension.

13 Q. Now as we come to the south of the County
14 Road 1550 North, there's an area that's in yellow.
15 Do you know what -- and it has a reference on the
16 side. It says UPRR to purchase for new
17 right-of-way. What is that?

18 A. That represents a strip of land that we
19 intend on purchasing to facilitate this project.

20 Q. And when you say facilitate the project, why
21 is that property needed?

22 A. Well, it's needed for two reasons. First,

1 we need a place to construct the new number 15
2 turnout so it would be a place to actually build the
3 switch and some of the new track, and, second, we
4 have several new train control signals going into
5 this location, so we need a place to put the
6 electronic equipment.

7 Q. To your knowledge, has the railroad started
8 to negotiate for the acquisition of this property?

9 A. Typically there is a long lead time on
10 property acquisitions. I believe negotiations
11 haven't been occurring.

12 JUDGE DUGGAN: He said a little bit on the first
13 reason that he needs this property. What was the
14 first reason?

15 THE WITNESS: Your Honor, the first reason is we
16 will need a place for a padded area to construct the
17 new turnout. We are putting a new number 15 turnout
18 to facilitate this length in siding. We will need a
19 place to build it.

20 MR. SHUMATE: Your Honor, let me ask a question
21 here if I may.

22 MS. SHUMATE: Q. Would you explain to the judge

1 what a turnout is?

2 A. Sure. A turnout is simply a divergence in
3 the track that allows a train to take one of two
4 different routes.

5 Q. In layman's terms, is this what I would call
6 a switch?

7 A. It can also be called a switch.

8 JUDGE DUGGAN: So this would be a new location of
9 the switch at the south end of the extension and
10 similar to the point of the switch we have
11 previously seen at the south end of the siding
12 track, right? If that's not correct, just tell me
13 it's not correct. If you don't understand the
14 question, tell me you don't understand the question.

15 THE WITNESS: I'm sorry. I'm not sure I
16 understand the question, sir.

17 MR. SHUMATE: Maybe I can help, your Honor.

18 MR. SHUMATE: Q. Would you tell the judge from
19 where the existing crossing is to where the -- we
20 saw photographs where the existing switch was --

21 A. Okay.

22 Q. -- and that effectively is going to be moved

1 to the south; is that correct?

2 A. It will be moved to the south about

3 450 feet.

4 Q. Can you tell the judge where the new turnout

5 will be based on this document?

6 A. Yes. It will be approximately two inches to

7 the left of the County Road 1550 North crossing

8 that's depicted on the drawing.

9 Q. There is a reference to a number 12 in black

10 at that location.

11 A. Yes. There is exactly -- it's a dot and

12 there's a black number 12 just to the right of it.

13 Q. And this yellow property that we have talked

14 about, one of the first purposes you indicated was

15 for the turnout that was for a staging area to build

16 it and then actually place it where it will be,

17 correct?

18 A. Yes. We'll need a place to build it.

19 Q. So it's a construction site?

20 A. Correct.

21 Q. And then after you construct and put in the

22 turnout, what else will be done on this yellow site

1 that's more permanent in nature?

2 A. That will be the place that the signal
3 electronics, the bungalow or the cabin would need to
4 go for the new train control signal that we plan on
5 installing.

6 Q. Now I would like to direct your attention to
7 Page 22 of Petitioner's Group Exhibit C. Page 20, I
8 mean. What is this?

9 A. This represents the plan and profile, a
10 little more detailed view of the County Road 1550
11 North crossing.

12 Q. Would you tell the judge how to hold this so
13 he can see it where you have north is pointing?

14 A. Yes. Sure. I apologize, your Honor, for
15 this exhibit. Unfortunately, north is pointing to
16 the bottom. If you could turn this exhibit 180
17 degrees, north would point toward the top of the
18 page. I apologize for that.

19 Q. Okay. So what's this hash mark there which
20 is on the eastern side of the crossing?

21 A. That represents some additional asphalt work
22 that would need to be done in support of the new

1 crossing for the siding extension just to meet
2 Illinois Vehicle Code standards that John had
3 referenced earlier.

4 Q. So this is where the road would have to be
5 built up to meet Illinois Code 1535?

6 A. That's correct. And that all will be done
7 at Union Pacific's expense. As part of the project,
8 we'll pay for all that road work.

9 Q. There's no hash markings to the west. Do
10 you know whether or not it's needed on that side?

11 A. The project had not planned for any work to
12 the west.

13 Q. Okay. What will be the nature of the
14 crossing surface that will be used if this is
15 approved by the Illinois Commerce Commission?

16 A. As part of this project, our plan is to
17 install two new concrete crossing surfaces, one for
18 the new crossing for the length and siding and the
19 second one for the crossing of the existing main
20 tracks, so we have a total of two new crossings
21 going in there.

22 Q. Is that the highest standard that the Union

1 Pacific has for crossings?

2 A. Yes. That's as good as it gets.

3 Q. And, as proposed, based on the vehicle

4 experience at this crossing, what was Union

5 Pacific's plan for signalization at this particular

6 crossing?

7 A. As far as warning devices for roadway

8 traffic, we defer always to the Illinois Commerce

9 Commission for their guidance on that question.

10 Q. But under the plans that have been prepared

11 thus far, what is the type of signalization that's

12 planned for?

13 A. I don't believe it was shown in the plans.

14 Q. Okay. Now, Mr. Venice, is there anything

15 that I failed to ask you that you think would be

16 helpful to the judge in this matter in reaching a

17 decision as to whether or not this particular

18 additional crossing should be permitted by the

19 Illinois Commerce Commission?

20 A. I think we have previously covered it fairly

21 well. Again, the general idea for the project is an

22 increase in train traffic on our Peoria subdivision.

1 This new siding -- new turnout for the siding --
2 excuse me -- and new signalization will help
3 facilitate trains going north and south on this
4 relatively single track of the railroad.

5 Q. With the improvements proposed by the
6 railroad, would the crossing be safer than it is
7 today in your opinion?

8 A. Could you please explain.

9 Q. Okay. I'll rephrase the question. With the
10 upgrades to the crossing surface, will it be safer
11 than the type of crossing that's there now?

12 A. Well, in matters of motor safety, we always
13 defer to the Illinois Commerce Commission and their
14 guidance as far as warning devices.

15 Q. But the crossing surface will be a safer,
16 better surface than it is today?

17 A. It would be an improved surface as far as
18 what is there now.

19 Q. And will the addition of additional road
20 material to the east make this a more level crossing
21 than it is today?

22 A. Yes. The idea of the additional road

1 material or asphalt material is to comply with the
2 Illinois Vehicle Code.

3 MR. SHUMATE: Your Honor, I have no further
4 questions and I --

5 JUDGE DUGGAN: Go ahead. I thought you were
6 going to say something else. I thought he started
7 to say something else.

8 MR. SHUMATE: I was going to say we also have
9 Mr. Rich Ellison here if he can answer any questions
10 that's more of a technical nature.

11 JUDGE DUGGAN: Mr. Saladino.

12 MR. SALADINO: Yes. Thank you, your Honor.

13 CROSS EXAMINATION

14 BY

15 MR. SALADINO:

16 Q. Mr. Venice, I just have a couple of
17 questions for you. First of all, who would be
18 responsible for the maintenance and the ownership of
19 this second track if the Commission does issue an
20 order approving it?

21 A. The Union Pacific will own the track, will
22 own the crossing. We will maintain the crossing.

1 Q. Okay. And do you know what the proximity to
2 the roadway closest to that as possible that there
3 may be a train car parked on the siding?

4 A. Unfortunately, John, I can't give that
5 detail from the print. From Exhibit 19, you will
6 see that we are installing train control signals, so
7 there obviously could be a case where there is a
8 train held on the siding.

9 Q. So it is possible that there would be a
10 train car parked on the siding possibly within
11 500 feet of the roadway?

12 A. That is a possibility, yes, sir.

13 Q. Okay.

14 REDIRECT EXAMINATION (continued)

15 BY

16 MR. SHUMATE:

17 Q. I would like to have a clarification on
18 that. The second crossing as it comes to the south,
19 how far south of the crossing does it come, the
20 siding? Approximately will be fine.

21 A. Well, the overall addition of track to the
22 south is 400 -- approximately 480 feet.

1 Q. So since it's 480 feet, would there be any
2 railcars normally parked in that area even if it's
3 just on a normal basis?

4 A. Well, under a normal basis, no, there
5 wouldn't, but I can't testify to that it would never
6 occur.

7 Q. But what's the average? Do you know what
8 the average length of a rail car is approximately?

9 A. The cars that we have been using now the
10 freight cars average about 60 feet on the small end
11 to about 89 feet on the long end for intermodal and
12 railcars.

13 Q. So if you were to fully utilize this entire
14 piece, how many railcars would be placed there --
15 could be place there?

16 A. You know, probably a maximum of four or five
17 really.

18 Q. Is there a potential that a railroad would
19 ever set out a car there because it's a bad order
20 railcar?

21 A. Is there a potential? Yes. Sure.

22 Q. For purposes of the Judge's understanding,

1 what would be a bad ordered railcar just as an
2 example?

3 A. Okay. A bad order railcar is a car that's
4 not safe to travel in a train. It could have a
5 defect ranging from a sticking brake to a broken or
6 misaligned wheel or wheel flange, anything that
7 would prevent the safe operation of the train.

8 Q. Now when the railroad would store a train on
9 this particular siding, would it store the train on
10 the crossing itself where the road would be blocked?

11 A. No. It would -- Illinois Vehicle Code
12 requires the train to be 500 feet from the crossing,
13 and that is our standard for Illinois.

14 MR. SHUMATE: Okay. Thank you.

15 RECROSS EXAMINATION

16 BY

17 MR. SALADINO:

18 Q. Okay. Mr. Venice, this is John Saladino
19 again in Springfield.

20 Do you have an estimated time frame for
21 which this work could be completed if an order was
22 issued?

1 A. Well, John, we are going to wait for the
2 Commission to make its decision on the project. The
3 plans have been finalized, but we have held off on
4 any type of construction activity until we get the
5 decision from the Commerce Commission.

6 Q. Okay. If the Commission recommended
7 installation of automatic flashing lights, signals,
8 and gates, do you have an idea on how long that
9 would take?

10 A. John, typically the installation from the
11 time it is first requested until it is fully
12 installed has been running 10 months to 12 months.

13 Q. Okay. And I have a question on Petitioner's
14 Group Exhibit C, Page 20. I believe you have stated
15 that the approach work on the east side of the
16 crossing would meet the standards of the Commerce
17 Commission or the Illinois Administrative Code 1535.

18 My question is if you look at the
19 profile that's at the top of your Page 20, I can't
20 quite read what's the profile grade. It gives a
21 percentage and it looks like it says 8.27 percent.
22 Do you know what that percentage represents if

1 that's correct?

2 A. I don't know, John, what that number
3 represents.

4 MR. SHUMATE: Do you know?

5 MR. ELLISON: No, I don't.

6 MR. SHUMATE: I'm sorry. I don't think
7 Mr. Ellison knows what it is either.

8 MR. SALADINO: No problem. I just wanted to make
9 you aware of that the Illinois Administrative Code
10 allows a one percent grade for the first 25 feet and
11 5 percent maximum grade thereafter. So if that
12 approach is, indeed, drawn at a 8.27 grade, it would
13 not meet the Illinois Administrative Code 1535.

14 In my opinion, I think that the length
15 shown on Group Exhibit C, Page 20, is probably too
16 short.

17 THE WITNESS: Okay.

18 MR. SALADINO: Go ahead, Mr. Shumate.

19 MR. SHUMATE: No. I understand that we would
20 require our contractor to meet the administrative
21 code for Illinois. I understand.

22 MR. SALADINO: Thank you. I just wanted to make

1 sure we got that on the record.

2 JUDGE DUGGAN: Let me ask -- I thought you said
3 on the east side.

4 MR. SALADINO: Yes. This is east.

5 JUDGE DUGGAN: Speak up for the court reporter.
6 You did say east side, correct?

7 MR. SALADINO: I did say the east side. It's
8 shown on Group Exhibit -- Page 20, Group Exhibit C,
9 Page 20. It's shown on the east side of the
10 crossing, and it looks to be approximately --

11 JUDGE DUGGAN: Well, here's my point. I thought
12 they only acknowledged the east side does not meet
13 1535.

14 MR. SALADINO: Yes, they did acknowledge that,
15 but I think during Mr. Venice's testimony, he stated
16 that the railroad would improve the approach on the
17 east side to meet our requirements, and what I was
18 basically just stating is that based on this drawing
19 is it true 8.27 percent that does not meet the
20 Illinois Administrative Code 1535.

21 JUDGE DUGGAN: Okay. So you are asking if this
22 8.2 is their stated grade of the improvements?

1 MR. SALADINO: Correct. That's what I was asking
2 if it's possible that might be the existing grade
3 and that's going to be improved to a maximum of 5
4 percent then, so that's what I was asking and I want
5 to determine what the 8.27 represented.

6 JUDGE DUGGAN: Okay.

7 MR. SHUMATE: And if I could add that the rule is
8 that it has to be one percent or 25 foot on each
9 side of the crossing. We will do that. And if
10 there's a grade of 5 percent as a maximum, then that
11 would have to be adjusted. The 8.27 would have to
12 be adjusted to 5, I believe.

13 Based on this drawing, it looks like
14 zero zero level. If you come out about 25 feet on
15 both sides, it looks like it may very well meet the
16 one percent. But, as you said, on the -- as you go
17 further out, maybe that has to be feathered further
18 out to meet whatever the rule is for the approaches,
19 and I think I understood you to say 5 percent
20 maximum.

21 MR. SALADINO: That's correct.

22 MR. SHUMATE: And we'll let the engineering folks

1 tell us at the engineering section of the Illinois
2 Commerce Commission.

3 MR. SALADINO: Okay. Thank you. You Honor,
4 that's all the questions that I have of Mr. Venice.
5 Thank you.

6 CROSS EXAMINATION

7 BY

8 JUDGE DUGGAN:

9 Q. Mr. Venice, is it your opinion that the
10 grade on the west side meets the requirement of 535
11 as it's presently constructed?

12 A. Your Honor, we did not take any measurements
13 on the west side. I don't know the answer to that.

14 JUDGE DUGGAN: Would someone else know the answer
15 to that?

16 MR. SALADINO: Your Honor, if I may, this is John
17 Saladino in Springfield.

18 JUDGE DUGGAN: Does the witness know the answer
19 of this?

20 MR. SHUMATE: Rich --

21 JUDGE DUGGAN: Hold on. Hold on. What is the
22 other witness here for?

1 MR. SHUMATE: Well, he was to answer any
2 questions with regard to the crossing to the extent
3 he would know the answer. He's been at the site.
4 He works with John Venice and he does some of the
5 diagnostics for the crossings when they are going to
6 be signalized and he helps assist with the
7 photographs.

8 JUDGE DUGGAN: Okay. Because, orally I don't
9 want to go back and forth between witnesses
10 unnecessarily here.

11 JUDGE DUGGAN: Q. When you say that the
12 extension is going to be 450 feet and that the
13 present south side of the siding ends a certain
14 number of feet north of the intersection, it sounds
15 like it may be only 350 feet out of the
16 intersection. Is that right, Mr. Venice?

17 A. That's correct. Yes, your Honor. The
18 length and siding will end maybe 300 to 350 feet of
19 County Road 1550 North.

20 Q. And if you are going to have cars now parked
21 within 500 feet of the intersection, then what is
22 the purpose of the extension?

1 A. Really, sir, the purpose of the extension is
2 in order to install a number 15 turnout which will
3 allow us the 30 miles an hour speed through the
4 turnout and also to facilitate the installation of
5 the train control signals.

6 Q. You said you want to be able to get your
7 trains over to the siding before that, but it's only
8 going to extend the area that they can sit on --
9 strike that.

10 You can't have a car stored 500 feet
11 either north or south of the intersection; is that
12 your understanding?

13 A. That's correct, yes.

14 Q. And your present turnout is about a hundred
15 feet north of the intersection, then I'm not sure
16 what the extra length does.

17 MR. SHUMATE: Your Honor, I think I can clarify
18 that --

19 JUDGE DUGGAN: Well, you are not --

20 MR. SHUMATE: -- with two questions.

21

22

1 REDIRECT EXAMINATION

2 BY

3 MR. SHUMATE:

4 Q. Mr. Venice, the new turnout that's going to
5 be put in is it going to be a power switch?

6 A. It will be a power-operated turnout
7 controlled by a dispatcher.

8 Q. Does that mean that an individual on the
9 train will to have get off and throw the switch?

10 A. No. The individual on the train would stay
11 on the train. Now they have to stop the train,
12 disembark, throw the switch by hand, then get back
13 on the train, and the train would go into the
14 siding.

15 With the improvements, if the turnout
16 is power operated, a dispatcher no longer has to
17 line the turnout of the switch for the siding and
18 the train can proceed 30 miles an hour into the
19 siding rather than having to stop, get out and throw
20 the switch by hand.

21 Q. And in this way the trains would not have to
22 stop at this location; is that correct?

1 A. They would not have to stop and throw a
2 switch, that's correct.

3 EXAMINATION

4 BY

5 JUDGE DUGGAN:

6 Q. Well, why can't you do that at the location
7 in the present situation?

8 A. We are looking to change the present
9 turnout. I believe it's only a number 10 or number
10 12, your Honor. We are looking to put a number 15
11 which would allow an increase in speed of the train.

12 Q. I don't know what 10, or 12, or 15 is.

13 A. It represents the amount of divergence or,
14 let's say, the amount of curve in the turnout.
15 Number 15 represents one foot of divergence for
16 every 15 feet in length.

17 Q. So the angle at which the train goes from
18 the main track to the side track would be a lesser
19 angle?

20 A. Yes. It would be a less severe angle, less
21 of a curb allowing the trains to operate at a higher
22 speed into the siding.

1 Q. All right. And so there's no more trains
2 using the crossing. It's just going to be onto
3 that side track rather than the main track, correct?

4 A. Well, we do anticipate an overall increase
5 in capacity on this subdivision over the next year
6 or two. That is our business model. We are looking
7 at a higher perhaps, 15 to 17 trains, due to our
8 growing business in the next two to three years.

9 Q. You say 15 to 17?

10 A. Yes. And that's our prediction as far as
11 the business growth we would see on this
12 subdivision, your Honor, in the next two to three
13 years. That's what your network planning people are
14 telling us.

15 Q. That's from 8 to 11?

16 A. Currently the train count averages 8 to 11
17 based on business volume.

18 Q. And that's still at the 40 miles per hour
19 maximum timetable speed; is that correct?

20 A. Yes. The main line would still stay at the
21 40 mile an hour timetable speed.

22 Q. There was mention of the UP serving the

1 grain facility, do you recall that?

2 A. Yes, I do, sir.

3 Q. Is that grain facility within the 350 feet
4 of the extra siding?

5 A. No. It would be outside of the limits of
6 the length and siding.

7 Q. How is the grain facility's needs served by
8 UP at the point then?

9 A. Frequently, your Honor, we do have
10 industries that come to us desiring rail service and
11 quite frequently we have new switch installations to
12 serve these existing facilities. It would not be
13 served with the length and siding, no.

14 Q. So that's simply something could be done
15 down the road sometime?

16 A. Right, sir. That is not affected by this
17 project, your Honor.

18 Q. Okay. And you are not sure -- to clarify
19 for the record very brief, but I think you said that
20 19 is the same as Exhibit A attached to the
21 petition; is that correct? Excuse me. Page 19 of
22 Exhibit C is the same as Exhibit A attached to the

1 petition, correct?

2 A. Yes, that's correct, your Honor.

3 Q. And what are you referring to -- okay.

4 Exhibit 19 is the plan and profile; is that correct?

5 A. Yes, sir, it is.

6 Q. And what are you referring to -- Exhibit 20

7 is -- what are you referring to that as?

8 A. Well, it's a simply more detailed view of

9 our proposal -- proposed engineering treatment of

10 the new crossing at 1550 North.

11 Q. And who prepared this?

12 A. The drawings were prepared by the Union

13 Pacific Railroad's engineering department in Omaha,

14 Nebraska.

15 Q. Can you tell from that drawing whether the

16 grade improvements on the east would abut the

17 frontage road on the southeast of the intersection

18 for the crossing?

19 A. It appears from the drawing, your Honor,

20 that it would.

21 Q. When you say the UP has offered to pay, that

22 includes the plans as they presently exist; is that

1 correct?

2 A. Your Honor, we will pay for any and all
3 costs of the roadwork or crossing construction
4 associated with the project as far as any roadwork
5 that needs to be done there.

6 Q. Okay. So even if the Commission feels that
7 the grade work on the east needs to be lengthened a
8 bit to meet the proper slope and even the Commission
9 orders grade work on the west to meet 1535, the
10 Commission then orders the flashing lights and
11 gates, UP is willing to pay for all that; is that
12 correct?

13 A. Your Honor, I can only testify as to the
14 grade -- the surface work. I don't know the answer
15 about the flashing lights and gates. I would have
16 to go back to my senior management for that answer.
17 But as far as any road work, or asphalt work, or
18 crossing surface work, we would pay for that
19 100 percent.

20 Q. Okay. And that includes also work on the
21 west if it's deemed necessary, correct?

22 A. Yes, sir, that's correct, your Honor.

1 Q. Now there was discussion about leaving a bad
2 ordered railcar on the siding. That's my
3 understanding. Now you are suggesting that would
4 not be south of the intersection. It would, in
5 fact, be south at some point 500 feet north of the
6 intersection?

7 A. Yes, sir. Our operating rules for the State
8 of Illinois require that 500 feet clear distance on
9 either side of the crossing.

10 Q. Even if your petition at Paragraph 9
11 proposes extension of the existing railroad siding,
12 we will create a railroad siding capable of handling
13 100 cars you need for the trains that, in fact,
14 includes the existing siding, correct?

15 A. Yes. That statement includes the existing
16 siding length. The siding would continue to be able
17 to handle those unit trains.

18 Q. Because, in fact, the existing siding can
19 handle a hundred car unit train, correct?

20 A. Yes, sir, your Honor, it could.

21 Q. As represented in the petition and what
22 appears on the pictures, that extension would run

1 directly south of the existing siding and continue
2 to run parallel at the same distance from the main
3 siding, correct?

4 A. Yes, it would, your Honor.

5 Q. Do you have to build up any of the --
6 whatever ground that the tracks run on, do you have
7 to build any of that up to have room for the siding
8 track?

9 A. Yes, your Honor. With the project, there
10 would be grading involved as well to bring the new
11 track level with the siding tracks. So, yes, there
12 would a grading component, your Honor.

13 Q. And so do you know the distance of the
14 crossing -- excuse me -- of the width of the
15 crossing? Okay. On the road how far from one side
16 of the crossing to the other on the road is what I'm
17 trying to ask?

18 A. Approximately 40 feet, your Honor.

19 Q. Is that from two outside tracks or how far
20 outside of the tracks?

21 A. Taking approximately the west edge of the
22 west crossing to the east edge of the proposed east

1 new crossing, about let's say 35 to 40 feet
2 approximately.

3 Q. And I'm asking what are you trying to do at
4 the edge of the crossing?

5 A. The edge of the crossing would be the edge
6 of the proposed concrete panel surface that we would
7 like to install.

8 Q. And what will be the width of that concrete
9 panel from the outside of the track?

10 A. From east to west, your Honor, both
11 crossings would be approximately 35 feet wide.

12 Q. No, I'm asking on either side of the track
13 on the outer-most track, how far will concrete
14 extend outside of that track?

15 MR. SALADINO: John, I believe that two-foot
16 concrete panel that's to be used on the outside of
17 the rail.

18 THE WITNESS: Oh, correct. I'm sorry. Yes, your
19 Honor. That would be two foot to the outside of the
20 outside rail, asphalt surface to the concrete
21 surface.

22 JUDGE DUGGAN: Q. And the area between the track

1 is going to be all concrete?

2 A. No. Typically we would use asphalt between
3 the tracks.

4 Q. It would be a foot concrete panel on the
5 inside and then asphalt?

6 A. Yes, it would. That's typically our
7 installation.

8 Q. And the UP will be responsible for
9 maintenance of the entire crossing, including the
10 asphalt and the concrete, correct?

11 A. Yes, your Honor, we would.

12 JUDGE DUGGAN: I don't have any other questions.
13 Mr. Schumate, do you have any other questions of
14 Mr. Venice?

15 MR. SHUMATE: No, your Honor. Thank you very
16 much.

17 JUDGE DUGGAN: Okay. Mr. Saladino?

18 MR. SALADINO: No, your Honor. No more
19 questions.

20 JUDGE DUGGAN: Okay. Let's go off the record.

21 (Off the record.)

22 Back on the record. Do you want to

1 call Mr. Ellison or do you want me to call him and
2 ask the questions?

3 MR. SHUMATE: Well, I can call him, your Honor.

4 JUDGE DUGGAN: Okay.

5 RICHARD ELLISON,
6 called as a witness herein, having been first duly
7 sworn, was examined and testified as follows:

8 DIRECT EXAMINATION

9 BY

10 MR. SHUMATE:

11 Q. I would like now to call Mr. Richard
12 Ellison. Mr. Ellison, will you state your name for
13 the record, please, and spell it.

14 A. Richard Ellison. Richard, R-i-c-h-a-r-d,
15 Ellison, E-l-l-i-s-o-n.

16 Q. Mr. Ellison, by whom are you currently
17 employed?

18 A. Union Pacific Railroad.

19 Q. How long have you worked for the railroad?

20 A. 33 years.

21 Q. And how long -- and what is your current
22 title?

1 A. Project coordinator.

2 Q. And are you familiar with the crossing which
3 is the subject of today's hearing?

4 A. Yes, I am.

5 Q. And you have been there and investigated
6 this particular project?

7 A. Yes, I have.

8 Q. Are you familiar with the petition that's
9 been filed in this matter?

10 A. Yes, I am.

11 Q. Are you familiar with what's been marked as
12 Petitioner's Group Exhibit C?

13 A. Yes, I am.

14 Q. And are you familiar with the plan and
15 profile which has been submitted as part of this
16 hearing for this particular crossing?

17 A. Yes, I am.

18 Q. A question has been raised as to whether or
19 not the approaches to the crossing meet what's been
20 referenced as Illinois Code 1535 on the west side of
21 this particular crossing. Do you know whether or
22 not if that's in compliance?

1 A. No, it is not in compliance with the ICC.

2 Q. How about on the eastern side?

3 A. The eastern side is a little bit better,
4 but, no, it's not. As it stands right now, no, it's
5 not.

6 Q. Okay. And is it your understanding that the
7 railroad would bring this crossing and approaches
8 into compliance with the applicable law?

9 A. Yes, we would.

10 MR. SHUMATE: And, your Honor, that's all the
11 questions that I have for him. I will turn it over
12 to you.

13 JUDGE DUGGAN: Thank you.

14 EXAMINATION

15 BY

16 JUDGE DUGGAN:

17 Q. When you made the reference to the plan and
18 profile, were you referring to what is Page 19 of
19 Exhibit C?

20 A. Page 20.

21 Q. Okay. So is -- you have got Page 19 that's
22 called plan and profile. Page 20 does not have a

1 designation. So are you, Mr. Shumate, suggesting
2 that this is just two pages of a plan and profile?

3 A. Yes.

4 MR. SHUMATE: Yes, Honor. We should refer to
5 both of these pages as collectively the plan and
6 profile.

7 JUDGE DUGGAN: Q. Very good. And did you say
8 you are the coordinator of this project,
9 Mr. Ellison?

10 A. Yes, I am.

11 JUDGE DUGGAN: Okay. I don't have anything
12 further of Mr. Ellison. Mr. Saladino?

13 MR. SALADINO: I have no questions, your Honor.

14 JUDGE DUGGAN: Let's go off the record.

15 (Off the record.)

16 Pat, we are back on the record. Okay.

17 We are going to ask for staff's position.

18 MR. SALADINO: Thank you, your Honor. Staff's
19 position would be that with the addition of that new
20 track, if that was ordered by the Commission that
21 the railroad needed the Union Pacific to install
22 automatic flashing lights, signals, and gates, staff

1 believes that this would eliminate any concerns of
2 site distance and would add an extra layer of
3 protection at this crossing, and if consistent with
4 staff's recommendation on other crossings similar to
5 this, and so we would recommend that.

6 As far as the approaches on the east
7 and west, staff would recommend that both approaches
8 be built up to meet Illinois Administrative Code
9 1535, and staff would recommend or we would also
10 like to just make an offer that there are grade
11 crossing protection funds available towards the
12 installation of automatic flashing lights, signals,
13 and gates for this project, and depending on the
14 extent of work and negotiations between staff and
15 the Commission and the Union Pacific Railroad, a
16 dollar amount will hopefully be agreed upon between
17 the parties.

18 JUDGE DUGGAN: All right. And it's my
19 understanding from discussions you had today,
20 Mr. Shumate, that UP is not challenging the
21 representation by Mr. Saladino that with this
22 project the Commission would require that the grade

1 on the east side be made consistent with Section
2 1535. Is that a correct understanding?

3 MR. SHUMATE: That's a correct understanding,
4 your Honor, and we concur with the staff's position
5 in this particular matter, and we look forward to
6 working with them.

7 JUDGE DUGGAN: Okay. And then my further
8 understanding then that the UP is agreeable with
9 preparing plans and profiles certainly for the west
10 side approach showing it will be consistent with
11 1535 and also the present plan and profile of the
12 east side will either make this exhibit clear so
13 that we can tell that, in fact, it meets the
14 requirements of 1535 or modified -- present modified
15 plan, so it will meet the requirements of 1535. Is
16 that my correct understanding, Mr. Shumate?

17 MR. SHUMATE: Yes, it is, sir. That's correct.
18 We will make sure that the plan and profile
19 addresses both the east approach and west approach
20 and bring it into compliance with the new Code 1535.

21 JUDGE DUGGAN: And also, that because the UP is
22 suggesting that this is an internal procedural

1 problem with UP designing the flashing lights and
2 gate system until, in fact, there's a Commission
3 order to that effect, that we discussed, that
4 Mr. Saladino believed that he could simply make an
5 offer to you at the next hearing of a certain
6 percentage of the total cost up to a certain amount
7 for the grade crossing protection fund contributions
8 and with that we could go ahead and present an order
9 for such crossing protection without actually having
10 a design ahead of time. Is that your understanding,
11 Mr. Shumate?

12 MR. SHUMATE: Yes, it is, your Honor.

13 JUDGE DUGGAN: Is that agreeable with you?

14 MR. SHUMATE: Yes.

15 JUDGE DUGGAN: Okay. Is that agreeable with you,
16 Mr. Saladino?

17 MR. SALADINO: Yes, your Honor.

18 JUDGE DUGGAN: Also, the presentation that I just
19 made about the approach grades and their design, is
20 that acceptable to you?

21 MR. SALADINO: That's agreeable with me, your
22 Honor.

1 JUDGE DUGGAN: Okay. Thank you. And then with
2 this, as previously discussed possibly off the
3 record, we discussed that the northwest siding of
4 the road, which is in the jurisdiction of --

5 MR. SALADINO: Milo.

6 JUDGE DUGGAN: -- in the jurisdiction of Milo
7 Township, Bureau County, as well as the southeast
8 frontage road, which is in the jurisdiction of
9 Saratoga Township and Marshall Township, may be
10 affected by the changes made to the approach,
11 because the approach may be built up, and, of
12 course, the slope change which may very well affect
13 the intersections of 1550 North with those frontage
14 roads thereby bringing in the road authority and
15 their interests. And while they have received
16 service about the petition by Mr. Shumate on behalf
17 of UP and notice of today's hearing served by the
18 transportation division, Director of Processing for
19 Railroads, they have not appeared today.

20 It's also my understanding Mr. Saladino
21 has talked with the Bureau County engineer who had
22 no objections to the project, as well as the Milo

1 County road commissioner, I'm assuming; is that
2 correct?

3 MR. SALADINO: Milo Township, Bureau County
4 engineer I talked to of Milo Township. I did not
5 talk to Milo Township personally.

6 JUDGE DUGGAN: Okay. So the Bureau County
7 engineer represented that he himself had no
8 objection and on behalf of Milo Township he had no
9 objection?

10 MR. SALADINO: Correct. He talked to Milo
11 Township on the phone today and stated that neither
12 of them had objections to this petition.

13 JUDGE DUGGAN: Okay. And you have not had
14 communications with Saratoga Township authority on
15 whether they had objection to this petition or not,
16 correct?

17 MR. SALADINO: I did not contact Saratoga
18 Township.

19 JUDGE DUGGAN: Okay. However, now that it does
20 appear now that we have this information, that it
21 appears that the grade of those two frontage roads
22 will likely have to be changed to meet the new

1 grades at 1550 North, you have agreed that you will
2 advise the township officials that this is likely
3 going to be the case and determine whether they want
4 to waive their appearance here and tell us that or
5 they'll be informed as to whether they want to come
6 here and state their position or not?

7 MR. SALADINO: That is correct, your Honor. I'll
8 contact both Milo and Saratoga Township highway
9 commissioners, and once I get the plan and profile
10 for the approach work to this grade crossing and
11 I'll ascertain their opinions on this petition and
12 bring it back to the next hearing if they're
13 required.

14 JUDGE DUGGAN: Very good. Mr. Shumate, anything
15 to add, clarify, or correct?

16 MR. SHUMATE: Yes, sir, your Honor. At this
17 point I would tender the exhibits for the record. I
18 would like to ask that you accept the exhibits that
19 have been marked as Petitioner's Exhibit A,
20 Petitioner's Exhibit B, and Petitioner's Exhibit
21 Group C consisting of 20 pages.

22 JUDGE DUGGAN: Okay. Well, since it appears

1 that -- well, I guess you can do that even though A
2 and B are, in fact, included in C. I guess we may
3 as well do it that way.

4 Do you have any objection to the
5 admission of A, B, and C into evidence,
6 Mr. Saladino?

7 MR. SALADINO: No, your Honor.

8 JUDGE DUGGAN: Then Exhibits A, B, and C will be
9 admitted.

10 (Whereupon, Petitioner's
11 Exhibits A, B, & C were
12 received in evidence.)

13 Mr. Shumate, if you would -- let's go
14 off the record.

15 (Off the record.)

16 So, again, Exhibits A, B, and C are
17 admitted, the hard copies, the hard copies only, the
18 ones marked by the court reporter, and Mr. Shumate
19 has agreed off the record that he'll mail them to
20 the Administrative Law Judge, Mr. Duggan, at the
21 Commission offices in Springfield. Is that correct,
22 Mr. Shumate?

1 MR. SHUMATE: Yes, that is correct, your Honor.

2 We'll do that.

3 JUDGE DUGGAN: Okay. Now if there's nothing else
4 today then, we are going to get a new date. Let's
5 go off the record once again.

6 (Off the record.)

7 Back on the record. We were off then,
8 so I will set a new date somewhere between 45 and 60
9 days out. Hopefully we'll have everything ready.
10 Thank you very much. That's all for today.

11 MR. SHUMATE: Thank you, your Honor.

12 (Whereupon, the above
13 matter was adjourned
14 to be continued sine
15 die.)

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